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AUTHORIZATION OF INTRASTATE QUARANTINES UNDER EMERGENCY CONDITIONS

SEPTEMBER 26, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DE LA GARZA, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H.R. 5455]

[Including Congressional Budget Office cost estimate]

The Committee on Agriculture, to whom was referred the bill (H.R. 5455) to amend the Act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That the Act of July 2, 1962 (21 U.S.C. 134(a)(b)), is amended by striking out the colon in the first sentence of section 2(b) and everything thereafter to the end of the subsection and inserting in lieu thereof the following: ", and the Secretary may prohibit or regulate the movement within the State or other jurisdiction involved, of animals, animal carcasses, products and articles as the Secretary deems necessary in order to prevent the dissemination of any such disease or to eradicate any such disease or to otherwise protect the livestock or poultry of the United States: *Provided*, That such action may be taken under this subsection only if the Secretary finds, after review of measures taken by the State or other jurisdiction and after consultation with the Governor, that the measures being taken are inadequate. Before any action is taken in any State or other jurisdiction under this subsection, the Secretary shall notify the Governor of the State or other jurisdiction, shall issue a public announcement and shall file a statement for publication in the Federal Register of the action the Secretary intends to take, together with the findings and reasons therefor: *Provided*, That if it is not possible to make such a filing with the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed five business days, after commencement of the action. If the Secretary wishes to change any action previously taken under this subsection, the Secretary shall follow the procedure set forth in the preceding sentence.".

Brief Explanation

H.R. 5455 amends the Act of July 2, 1962, which authorizes intrastate quarantines under extraordinary emergency conditions. The bill would expand the powers of the Secretary of Agriculture to take action, after he has declared an extraordinary emergency due to the existence of any dangerous, communicable disease of livestock or poultry that constitutes a threat to the livestock of poultry of the United States and determined, after consultation with the Governor, that measures being taken in the State are inadequate. In such event, H.R. 5455 would authorize the Secretary to control the intrastate movement of animals, carcasses, products and articles related thereto which are not necessarily found to be affected by the disease to prevent the inadvertent spread of the disease or otherwise protect livestock or poultry in the United States.

Purpose and Need for the Legislation

Public Law 87–518, the Act of July 2, 1962 (21 U.S.C. 134a(b)), authorizes the Secretary of Agriculture to declare an extraordinary emergency and take specified actions when he finds that a State or other jurisdiction is not taking adequate measures to control the existence of any dangerous communicable disease of livestock or poultry that constitutes a threat to the livestock or poultry in the United States. The Department of Agriculture presently does not have authority to prevent the intrastate movement of animals, animal carcasses, animal products, or articles in such an emergency situation, unless the Secretary finds that the animals are, or have been, affected with, or exposed to, such a disease, and that the carcasses, products, and articles were so related to such animals as to be likely to be a means of disseminating such disease. Then, he may seize, quarantine, and dispose of the particular animals, carcasses, products, or articles involved.

This legislation provides authority to quarantine specific localities and control the intrastate movement of animals, their carcasses, and related products and articles which are not necessarily found to be affected by, or exposed to, any dangerous communicable disease of livestock or poultry. This additional authority would make it possible for the United States Department of Agriculture to implement the most effective quarantine controls to prevent the inadvertent intrastate spread of such a disease from affected localities. Uncontrolled movements of livestock and poultry into affected areas can hamper control and eradication efforts by increasing the population of exposed animals needing treatment. The outbreak of exotic Newcastle disease in Southern California in 1971–1973, and recent outbreaks in California, Virginia and Pennsylvania in 1980, clearly demonstrate the need for this additional authority. This legislation, paralleling the authority recently given USDA in the Agriculture and Food Act of 1981 for control of plant pests under the Federal Plant Pest Act, would allow the Department of Agriculture additional flexibility for early control of the spread of said diseases.

SECTION-BY-SECTION ANALYSIS

Under the Act of July 2, 1962 (21 U.S.C. 134a(b)) the Secretary may declare an extraordinary emergency when any dangerous communicable disease of livestock or poultry constitutes a threat to the livestock and poultry industry of the United States and would be a burden on interstate and foreign comerce. In such case, the Secretary has the authority to seize, quarantine, and dispose of any animals which he finds to be affected by or exposed to such a disease, and any animal carcasses, products or materials which he finds were so related to such animals as to be likely to be a means of disseminating any such disease. The Act further provides that the Secretary may take s milar action under an extraordinary emergency within a State or other jurisdiction only if he finds that adequate measures are not being taken by the State or other jurisdiction and only after notifying the appropriate officials of the State or jurisdiction. However, such intrastate controls under this authority are now limited to "affected and exposed" animals, animal carcasses, products and articles which were so related to such animals that they are likely to disseminate a disease which constitutes a threat to the livestock and poultry industry of the United States.

H.R. 5455 amends the Act of July 2, 1962, by expanding the authority of the Secretary to allow greater flexibility in controlling the intrastate movement of animals, animal carcasses, and related products and materials during serious outbreaks of animal diseases by—

(1) adding at the end of section 2(b) of the Act the following language:

> , and the Secretary may prohibit or regulate the movement within the State or other jurisdiction involved, of animals, animal carcasses, products and articles as the Secretary deems necessary in order to prevent the dissemination of any such disease or to eradicate any such disease or to otherwise protect the livestock or poultry of the United States; and

(2) expanding the proviso requiring notice and consultation with officials of a State or other jurisdiction by providing that such action may be taken only if the Secretary finds, after review of measures taken by the State or other jurisdiction and after consultation with the Governor, that the measures being taken are inadequate. Before any action is taken in any State or other jurisdiction, the Secretary shall notify the Governor of the State or other jurisdiction, shall issue a public announcement and shall file a statement for publication in the Federal Register of the action the Secretary intends to take, together with the findings and reasons therefor: *Provided*, That if it is not possible to make such a filing with the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed five business days, after commencement of the action. If the Secretary wishes to change any action previously taken under this subsection, the Secretary shall follow the procedure set forth in the preceding sentence.

COMMITTEE CONSIDERATION

A. HEARINGS

On September 21, 1982, the Subcommittee on Department Operations, Research, and Foreign Agriculture of the Committee on Agriculture held a hearing for the consideration of H.R. 5455, a bill to amend the act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions.

Dr. Harry C. Mussman, Administrator, Animal and Plant Health Inspection Service (APHIS), of the United States Department of Agriculture, testified in support of H.R. 5455, stating that it had been introduced at the request of the Department. In explaining the background and need for said legislation, Dr. Mussman noted that H.R. 5455 would expand the authority of the Secretary, under the Act of July 2, 1962, to allow greater flexibility in controlling the intrastate movement of animals, animal carcasses, and related products and materials during serious outbreaks of animal diseases.

Dr. Mussman cited the provisions of the Act of July 2, 1962, and the authority of the Secretary under said Act, when any dangerous communicable disease of livestock or poultry constitutes a threat to the livestock and poultry industry of the United States in interstate and foreign commerce, to seize, quarantine, and dispose of any animals which he finds to be affected by or exposed to such a disease, and any animal carcasses, products or materials which he finds were so related to such animals as to be likely to be a means of disseminating any such disease. He noted that the Act further provides the Secretary with the authority to take similar action within a State, under an extraordinary emergency, only if he finds that adequate measures are not being taken by the State or other jurisdiction and only after notifying the Governor of the State or other jurisdiction.

Dr. Mussman pointed out, however, that these intrastate controls are now limited to "affected and exposed" animals, animal carcasses, products and articles which are likely to disseminate a disease which constitutes a threat to the livestock and poultry industry of the United States. He stressed the need to broaden the Secretary's authority to prohibit or regulate the movement within a State or other jurisdiction involved, of animals, animal carcasses, products and articles, whether or not he can show that the item in question has been affected or exposed, or is so related to an affected or exposed animal that it is likely to be capable of disseminating the disease. Dr. Mussman stated that this additional authority would allow the Department to implement the most effective control and eradication procedures possible to prevent intrastate spread of the disease from affected localities within the State or other jurisdiction.

Dr. Mussman concluded his testimony by underscoring the need for said legislation to aid the Department in quickly controlling the spread of serious diseases of livestock and poultry, for, if an outbreak can be brought under control quickly, the cost and effort expended in eradication would decrease.

Mr. Panetta expressed concern over the sufficiency of notice to State officials and a discussion followed on the pertinent provisions related to this issue.

B. SUBCOMMITTEE MARKUP

Following the conclusion of the hearing, the Subcommittee went into a business session for markup of the bill. The Subcommittee adopted an amendment by adding two provisos that expanded the notice provisions to officials of a State, or other jurisdiction, to conform with a similar provision contained in the amendments to the Federal Plant Pest Act incorporated in the Agriculture and Food Act of 1981. The bill was then reported by the Subcommittee, with an amendment, by voice vote and with the recommendation that it do pass.

C. FULL COMMITTEE MARKUP

On September 23, 1982, in an open business meeting of the full Committee, Chairman E (Kika) de la Garza called for the consideration of H.R. 5455 and recognized Mr. George E. Brown, Jr., Chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture, to report on action taken by his Subcommittee on the bill.

After a brief explanation of the provisions of H.R. 5455, Mr. Brown moved the adoption of the bill, which was approved without objection. The Committee then ordered H.R. 5455 reported, as amended, by voice vote in the presence of a quorum.

ADMINISTRATION POSITION

The Committee received the following Executive Communication of December 14, 1981, from the Secretary of Agriculture recommending enactment of legislation to authorize intrastate quarantines under extraordinary emergency conditions.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 14, 1981.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Transmitted herewith for the consideration of the Congress is a draft bill "To amend the Act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions."

The Department of Agriculture recommends enactment of the draft legislation.

The bill would expand the powers of the Secretary after he has declared an extraordinary emergency due to the existence of any dangerous, communicable disease of livestock or poultry that constitutes a threat to the livestock or poultry of the United States. Subsection (b) of section 2 of the Act of July 2, 1962 (76 Stat. 129; 21 U.S.C. 134a(b)) authorizes the Secretary to declare such an extraordinary emergency and take specified actions when he finds that a State or other jurisdiction is not taking adequate measures to control any such disease. The Department presently does not have authority to prevent the intrastate movement of animals, animal carcasses, animal products,

or articles in such an emergency situation, unless the Secretary finds that the animals are or have been affected with or exposed to such a disease and that the carcasses, products, and articles were so related to such animals as to be likely to be a means of disseminating such disease. Then he may seize, quarantine and dispose of the particular animals, carcasses, products, or articles involved.

Authority is needed to quarantine specific localities and control the intrastate movement of animals, their carcasses, and related products and articles which are not necessarily found to be affected with or exposed to any dangerous communicable disease of livestock and poultry. This authority would make it possible for the Department to implement the most effective quarantine controls to prevent the inadvertent intrastate spread of such a disease from affected localities. Uncontrolled movements of livestock and poultry into affected areas can hamper control and eradication efforts by increasing the population of exposed animals needing treatment. The outbreak of exotic velogenic viscerotropic Newcastle disease (VVND) in Southern California in 1971–73, and the outbreaks as recent as March and April of 1980 in California, Virginia, and Pennsylvania, clearly demonstrated the need for such authority.

Section 102(2)(c) of Public Law 91–190 does not apply. The proposed legislation does not significantly affect the quality of the human environment.

An identical letter has been sent to the President of the Senate.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

Enclosure.

A BILL To amend the Act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 2, 1962 (21 U.S.C. 134a(b), is amended by—

(1) inserting in section 2(b) immediately before the colon in the first sentence the following: ", and he may prohibit or regulate the movement within the State or other jurisdiction involved, of animals, animal carcasses, products and articles as he deems necessary in order to prevent the dissemination of any such disease or to eradicate any such disease or to otherwise protect the livestock or poultry of the United States".

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison prepared by the Director of the Congressional Budget Office under clause 2(l)(3)(C) of Rule XI of the Rules of the

House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 24, 1982.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 5455, a bill to amend the Act of July 2, 1962, to authorize as ordered reported by the House Committee on Agriculture, September 23, 1982.

This bill provides the authority for the Secretary of Agriculture to regulate the intrastate movement of animals and animal products for animal disease prevention.

Based on this review, it is expected that no significant cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director.*

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 5455, as amended will have no inflationary impact on the national economy.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 5455, as amended.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

ACT OF JULY 2, 1962

* * * * * * *

SEC. 2. (a) The Secretary, whenever he deems it necessary in order to guard against the introduction or dissemination of a communicable disease of livestock or poultry, may seize, quarantine, and dispose of, in a reasonable manner taking into consideration the nature of the

disease and the necessity of such action to protect the livestock or poultry of the United States: (1) any animals which he finds are moving or are being handled or have moved or have been handled in interstate or foreign commerce contrary to any law or regulation administered by him for the prevention of the introduction or dissemination of any communicable disease of livestock or poultry; (2) any animals which he finds are moving into the United States, or interstate, and are affected with or have been exposed to any communicable disease dangerous to livestock or poultry; and (3) any animals which he finds have moved into the United States, or interstate, and at the time of such movement were so affected or exposed.

(b) Whereas the existence of any dangerous, communicable disease of livestock or poultry, such as foot-and-mouth disease, rinderpest, or European fowl pest, on any premises in the United States would constitute a threat to livestock and poultry of the Nation and would seriously burden interstate and foreign commerce, whenever the Secretary determines that an extraordinary emergency exists because of the outbreak of such a disease anywhere in the United States, and that such outbreak threatens the livestock or poultry of the United States, he may seize, quarantine, and dispose of, in such manner as he deems necessary or appropriate, any animals in the United States which he finds are or have been affected with or exposed to any such disease and the carcasses of any such animals and any products and articles which he finds were so related to such animals as to be likely to be a means of diseminating any such disease [: *Provided*, That action shall be taken under this subsection only if the Secretary finds that adequate measures are not being taken by the State or other jurisdiction. The Secretary shall notify the appropriate official of the State or other jurisdiction before any action is taken in any such State or other jurisdiction pursuant to this subsection.], *and the Secretary may prohibit or regulate the movement within the State or other jurisdiction involved, of animals, animal carcasses, products and articles as the Secretary deems necessary in order to prevent the dissemination of any such disease or to eradicate any such disease or to otherwise protect the livestock or poultry of the United States: Provided, That such action may be taken under this subsection only if the Secretary finds, after review of measures taken by the State or other jurisdiction and after consultation with the Governor, that the measures being taken are inadequate. Before any action is taken in any State or other jurisdiction under this subsection, the Secretary shall notify the Governor of the State or other jurisdiction, shall issue a public announcement and shall file a statement for publication in the Federal Register of the action the Secretary intends to take, together with the findings and reasons therefor: Provided, That if it is not possible to make such a filing with the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed five business days, after commencement of the action. If the Secretary wishes to change any action previously taken under this subsection, the Secretary shall follow the procedure set forth in the preceding sentence.*

(c) The Secretary in writing may order the owner of any animal, carcass, product, or article referred to in subsection (a) or (b) of this section, or the agent of such owner, to maintain in quarantine and to dispose of such animal, carcass, product, or article in such manner

as the Secretary may direct pursuant to authority vested in him by such subsections. If such owner or agent fails to do so after receipt of such notice, the Secretary may take action as authorized by said subsections (a) and (b) and recover from such owner or agent the reasonable costs of any care, handling, and disposal incurred by the Secretary in connection therewith. Such costs shall not constitute a lien against the animals, carcasses, products, or articles involved. Costs collected under this section shall be credited to the current appropriation for carrying out animal disease control activities of the Department.

(d) Except as provided in subsection (e) of this section, the Secretary shall compensate the owner of any animal, carcass, product, or article destroyed pursuant to the provisions of this section. Such compensation shall be based upon the fair market value as determined by the Secretary, of any such animal, carcass, product, or article at the time of the destruction thereof. Compensation paid any owner under this subsection shall not exceed the difference between any compensation received by such owner from a State or other source and such fair market value of the animal, carcass, product, or article. Funds in the Treasury available for carrying out animal disease control activities of the Department of Agriculture shall be used for carrying out this subsection.

(e) No such payment shall be made by the Secretary for any animal, carcass, product, or article which has been moved or handled by the owner thereof or his agent knowingly in violation of a law or regulation administered by the Secretary for the prevention of the interstate dissemination of the communicable disease, for which the animal, carcass, product, or article was destroyed or a law or regulation for the enforcement of which the Secretary enters or has entered into a cooperative agreement for the control and eradication of such disease, or for any animal which has moved into the United States contrary to such law or regulation administered by the Secretary for the prevention of the introduction of a communicable disease of livestock or poultry.

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